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THE DISORDERLY, UNDISCIPLINED STATE OF
THE “GOOD ORDER AND DISCIPLINE” TERM

by

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The views expressed in this academic research paper are those of the author and do not reflect the official policy or position of the US government, the Department of Defense, or Air University.



Biography

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Abstract

Good order and discipline is supposed to represent a core military principle, a unique condition critical to operational success that sets the military apart from the rest of society. In recent years, however, critics have begun to allege a disparity between what military leaders say about good order and discipline and the reality of how they actually use the term. They note that in a series of proposed reforms, the military has cited good order and discipline as a primary basis for opposing such changes without substantively explaining how or why good order and discipline would be impacted. Critics see this as evidence that the military uses the term simply to cover its distaste for reform rather than convey a fundamental military principle.

This paper studies whether these criticisms are warranted. It examines how modern military leaders have employed the term in recent decades, and how senior Air Force leaders understand good order and discipline's meaning. It concludes that the military's use of the phrase has primarily focused on opposition to proposed personnel and social issues and that senior leaders' definitions of the term are disparate and generalized. Thus, good order and discipline is plagued by usage that is at once narrow and amorphous, and the idea of good order and discipline may be losing its coherence and risks losing its persuasiveness. Ironically, the very notion of good order and discipline is itself in disarray, impaired by undisciplined use of the phrase. The paper closes with some fundamental questions about good order and discipline in the modern military that remained unanswered, and offers brief recommendations how the military can begin to reclaim this important concept. The format of this paper does not allow for a full treatment of these issues, but the hope is that this paper rekindles a much-needed and long-dormant discussion.

Introduction

“Discipline is the soul of an army.—It makes small numbers formidable; procures success to the weak, and esteem to all.” So wrote Lieutenant Colonel George Washington in a 1757 letter to his Virginia Regiment Captains.¹ If this is true, the military seems to be experiencing a spiritual crisis. The military frequently invokes the term “good order and discipline,” asserting it represents a unique obligation to ensure mission success. Many who have served in the military have a notion of what good order and discipline means, and seem to assume everyone holds the same understanding. However, modern usage and understanding of the term raise questions about whether good order and discipline really carries the weight and meaning the military professes. Recent usage of the term primarily comes in opposition to proposals for changes in the military’s personnel policies or military justice matters, and military officials tend to use it in a way that forecloses rather than stimulates discussion. Substantive examination of what good order and discipline actually means today appears lacking, and it is often difficult to discern whether the term means something concrete and distinct at all. Meaningful discussion is desperately needed to reestablish what good order and discipline means to the modern military. Ironically, the military’s disorderly, undisciplined use of “good order and discipline” has imperiled the very notion of this crucial military concept.

This paper has two aims: to inform readers how the modern military uses and understands the good order and discipline term, and to re-initiate a discussion on this important topic. After introducing criticisms concerning modern usage of the term, the paper summarizes a study of military officials’ public statements using the term in recent decades. Additionally, this paper

¹ George Washington, “Instructions to Company Captains: General Instructions to all the Captains of Companies,” 29 July 1757, <http://founders.archives.gov/documents/Washington/02-04-02-0223>.

summarizes a survey of senior Air Force officers and enlisted members about their understanding of this term. Ultimately, this paper calls for more substantive discussion about what good order and discipline means today, and concludes with brief recommendations to reclaim this concept.

Good Order and Discipline: Rhetorical Shortcut or Meaningful Concept?

As Washington's letter indicates, military professionals have long asserted the importance of discipline. For centuries, military leaders have recognized that discipline is a crucial determiner of military effectiveness.² In the 19th and 20th centuries, military leaders ranging from Scott to Sherman to MacArthur noted the importance of discipline in military organizations.³ More recently, the Air Force's top military lawyer wrote that good order and discipline is the "fourth element of combat effectiveness," and the Navy's top enlisted member penned, "Very few things have a greater impact on warfighting readiness and our ability to accomplish mission than Good Order & Discipline."⁴ Military codes have thus authorized punishment for disciplinary infractions to help ensure good order and discipline.⁵ By the late 1700s, the British Articles of War paired the related concepts of discipline and "good order,"

² Charles J. Dunlap, Jr., "Military Justice," in *The Modern American Military*, ed. David M. Kennedy (Oxford: Oxford University Press, 2015), 242 ("Just as military music has served a martial purpose for eons—trumpets did a pretty good job for Joshua and the Israelites at the battle of Jericho—so too has military justice served war fighters since virtually the beginning of organized conflict, because it plays a central role in establishing the discipline indispensable for martial success"); Sun Tzu, *The Art of War* (Harrisburg, PA: The Military Service Publishing Co., 1944), 41 (listing "On which side is discipline most rigorously enforced" as one of seven considerations for predicting military success); Flavius Vegetius Renatus, *The Military Institutions of the Romans (De Re Militari)*, trans. Lieutenant John Clarke (Harrisburg, PA: The Military Service Publishing Co., 1944), 9 ("Victory in war does not depend entirely upon numbers or mere courage; only skill and discipline will ensure it.")

³ Morris, *Military Justice*, 3.

⁴ Lieutenant General Richard C. Harding, "A Revival in Military Justice," *The Reporter* 37, no. 2 (Summer 2010), 5; Master Chief Petty Officer of the Navy Mike Stevens, "Zeroing in On Excellence: Good Order and Discipline (Part 4), 23 November 2012, <http://navylive.dodlive.mil/2012/11/23/zeroing-in-on-excellence-good-order-and-discipline-part-4/>.

⁵ Lawrence J. Morris, *Military Justice: A Guide to the Issues* (Santa Barbara, CA: Praeger, 2010), 2.

prohibiting conduct prejudicial to “Good Order and Military Discipline.”⁶ The phrase “good order and discipline” remains in use to this day. The Supreme Court has upheld modern U.S. military law’s criminalization of conduct deemed prejudicial to good order and discipline, recognizing “the fundamental necessity for obedience, and the consequent necessity for imposition of discipline” in the military.⁷

However, commentators have begun to question whether good order and discipline really carries the meaning military leaders espouse. These criticisms assert that the military’s good order and discipline language reflects not a core principle of military effectiveness but a rhetorical smokescreen to reflect its opposition to social and personnel policy changes and proposed military justice reforms. They observe that the military opposed the opening of military opportunities to racial minorities, women and homosexuals, along with military justice reforms. Each time, it based its opposition on good order and discipline-based concerns. Repeatedly, critics note, the objections were overruled, and ultimately the changes seemingly had little to no tangible impact on good order and discipline. Thus, critics charge, espousing “good order and discipline” increasingly seems to be the military’s way of “crying wolf.”

This concern has most recently arisen from leaders’ stances on proposed military justice reforms that would curtail commanders’ prosecutorial power.⁸ While agreeing to some modifications, military leaders have opposed proposals to remove certain prosecution decisions from the accused’s commander, citing good order and discipline concerns.⁹ Critics charge that

⁶ British Articles of War of 1774, § 20, art. 3 (“All crimes not capital and all Disorders and Neglects which Officers and Soldiers may be guilty of to the Prejudice of Good Order and Military Discipline, thus, not mentioned in the above Articles of War are to be taken cognizance of by a General or Regimental Court-Martial, according to the Nature and Degree of the Offense and be punished at their discretion.”)

⁷ Article 134, UCMJ; 10 U.S.C. 934 (1950); *Parker v. Levy*, 417 U.S. 733, 758 (1974).

⁸ David A. Schlueter, “American Military Justice: Responding to the Siren Songs for Reform,” *Air Force Law Review* 73 (2015), 206.

⁹ Major John W. Brooker, “Improving Uniform Code of Military Justice Reform,” *Military Law Review* 222 (Winter 2014), 2.

the military has failed to articulate exactly how and why good order and discipline requires commanders to remain in a central decision-making position. Instead, they suspect “good order and discipline” merely masks a resistance to change, not a substantive expression of a legitimate military concern. One newspaper editorial claimed that opposition “is more about refusal to give up turn and authority than genuine concern for good order and discipline”; another columnist asserted that good order and discipline claims are “just Pentagon rhetoric”; and a third editorial called the military’s assertions “a red herring.”¹⁰ A commenter on a noted military justice website asserted: “I’ve not seen anyone in a position of authority make a cogent argument for exactly why, in their view, possessing the power to launch criminal prosecutions is essential to a commander being able to maintain combat effectiveness. Those folks who regularly defend command prerogative in this respect usually just throw that premise around like it’s unquestionable.”¹¹ Likewise, the American Bar Association’s magazine observed, “The military has never been able to articulate how or why [removing commanders from court-martial decisions] would undermine good order and discipline . . . specifically.”¹²

Other commenters place the military’s stance on military justice reforms in a broader context. A *Huffington Post* writer asserted:

[T]he insufficiency of [the good order and discipline] catch phrase as justification for opposing policy changes on issues of critical importance to our nation sound[s] eerily familiar to those of us involved in previous efforts to change military policies that were likewise opposed due to “good order and discipline.” Had we blindly

¹⁰ Editorial, “Commanders a Big Part of the Problem,” *San Antonio Express-News*, 9 December 2013, 12; Ruth Marcus, “Opening Eyes to an ‘Invisible War,’” *The Washington Post*, 9 June 2013, A19; Anu Bhagwati, “Ending Sexual Assault in the Military,” *Washington Post Outlook* (26 May 2013), B3; Editorial, “To Fight Sex Crimes, Fix Military Justice,” *Tampa Bay Times* (13 April 2013), 12A.

¹¹CAAFlog military justice blog comment, 12 October 2015, <http://www.caaflog.com/2015/10/10/scholarship-saturday-professor-schlueter-responds-to-the-siren-songs-for-reform/#comments>.

¹² Lorelei Laird, “Military Lawyers Confront Changes as Sexual Assault Becomes Big News,” *ABA Journal*, 1 September 2013, (quoting Taryn Meeks, Protect Our Defenders Executive Director), http://www.abajournal.com/magazine/article/military_lawyers_confront_changes_as_sexual_assault_becomes_big_news/.

obeyed, in response to the tactical deployment of this catch phrase in the past, we would not have integrated units, we would not have such a wide array of military occupational specialties open to women, and troops could still be fired if they were discovered to be gay or lesbian. All of these changes in military policy took place against the recommendation of many senior defense leaders and under the threat that such changes would negatively impact good order and discipline and impair the ability of military commanders—and the military as a whole—to function. We now know, however, that each of these changes not only did not corrode military and command capabilities, but instead greatly enhanced the capability and reputation of our armed forces¹³

A Chicago Tribune opinion piece made a similar observation when military leaders cited good order and discipline to oppose military justice reforms:

Does that line of argument sound familiar? It should. It's exactly what the military has said whenever it has been presented with a new requirement proposed by elected officials dissatisfied with existing policy.

. . .

But somehow our military managed to survive putting blacks and whites in the same billets. Somehow it became the most powerful fighting force on Earth following the intrusion of females. A year after gays were admitted, [General James F.] Amos said, "I'm very pleased with how this turned out."

The people in charge of the services may have the best of intentions in dealing with sexual assault.

But they have a habit of rejecting reasonable changes on the basis of fears that turn out to be unfounded.¹⁴

¹³ Alexander Nicholson, "The 'Good Order and Discipline' Auto-Block in Making Military Policy, *Huffington Post Politics (Blog)*, 24 August 2013, http://www.huffingtonpost.com/alexander-nicholson/military-reforms_b_3491120.html.

¹⁴ Steve Chapman, "Military Brass Play Same Old Song," *Chicago Tribune*, 25 July 2013, C23. The omitted portion of the quoted text reads as follows:

In 1941, Army Chief of Staff Gen. George Marshall advised that efforts to bring about racial integration "are fraught with danger to efficiency, discipline or morale." Adm. Chester Nimitz agreed that segregation was essential to "harmony and efficiency aboard ship."

The brass took the same view of admitting women to the service academies. In 1974, Lt. Gen. Albert Clark, superintendent of the Air Force Academy, said "the introduction of female cadets will inevitably erode this vital atmosphere." When the idea of putting women on Navy ships arose, a survey of sailors found most thought it would have "a negative impact on discipline."

We got a reprise of this critique whenever anyone mentioned allowing gays in the military.

During the 2010 debate in Congress, more than 1,000 former generals and admirals signed a letter saying the ban was needed to "protect good order, discipline and morale."

These two broader critiques do not stand alone.¹⁵ As a *Newsday* author asserted, the Pentagon's use of good order and discipline "repeats – like a mantra – phrases such as 'unit cohesion,' 'morale and welfare' and 'service discrediting' as if the very repetition of these clichés will prove its point."¹⁶ Congressional representatives have picked up on this theme. Senator Kirsten Gillibrand, a leading advocate to alter the military justice system, stated in a 2013 hearing: "When we tried to repeal don't ask, don't tell, military commanders said you cannot possibly do this; this will undermine good order and discipline. When we wanted women to be able to serve in the military, they said you cannot possibly do that because of good order and discipline. When we integrated the armed services, commanders said you cannot possibly do this; it will undermine good order and discipline. We did it. We did every single one of those reforms."¹⁷ Three years earlier, as Congress repealed "Don't Ask, Don't Tell," Congressman Bobby Rush made a similar connection: "[C]ritics of this amendment, and the repeal effort, have often stated that allowing open service will 'disrupt unit cohesion' and lead to a breakdown in 'good order and discipline.' These are the same arguments that were used in the 1940s to object to the integration of America's armed forces."¹⁸ Even as early as 1992, Representative Dave

¹⁵ David McCumber, "Military Defending the Indefensible on Capitol Hill," *San Antonio Express-News*, 11 June 2013, A13 (noting current military objections about military justice proposals "might have a little more credence if previous generations of leaders had not been equally forceful, in other years, in other hearing rooms, defending other pieces of indefensible ground. Ending 'don't ask don't tell' would destroy military discipline, we were told. The same with giving women any meaningful role in the military. The same with racially integrating military units"); Ari Ezra Waldman, "Military Justice is Alive and Well," *Parameters* 41 no. 1 (Spring 2011), 124 ("The only time servicemembers voiced concerns about unit cohesion, order, and discipline was when they fell back on stereotypes of effeminate men, unwanted sexual advances, and inappropriate displays of affection"); Nathaniel Penn, "Son, Men Don't Get Raped," *GQ* 84 no. 9 (September 2014), 244; Editorial, "Gays in the Military: Same Old Argument," *The Washington Post* (24 June 2009), A26; Nathaniel Frank, "'Don't Ask, Don't Tell' Was Always on Shaky Grounds," *USA Today* (12 March 2009), 9A; Owen West, "An About-Face on Gay Troops," *The New York Times* (9 February 2009), A23; Alfredo S. Lanier, "'Don't Ask, Don't Tell'? Don't Bother," *Chicago Tribune* (30 July 2000), C1.

¹⁶ David P. Sheldon, "Military Should Cool it on Adultery," *Newsday*, 17 June 1997, A31.

¹⁷ Senate, *Military Justice Improvement Act*, 159th Cong., 1st sess., 14 November 2013, S. Doc. 162.

¹⁸ Congressional Record Extensions, *National Defense Authorization Act for FY 2011*, 111th Cong., 2nd sess., No. 86.

McCurdy posited that with the changing nature of society, the military, and warfare, “I think [the military is] going to have to define what ‘good order and discipline’ mean now.”¹⁹

Are these criticisms justified? Does the military tend to use good order and discipline in a meaningful, substantive way related to its core mission areas, or does it employ the phrase in a superficial manner to oppose social/personnel and military justice changes? This paper examines direct evidence about the military’s use and understanding of this term to answer these questions.

Modern Use of the “Good Order and Discipline” Term

Surprisingly, good order and discipline lacks an agreed-upon definition. This has been the case for some time; a 1949 Air Command and Staff College paper concluded, “[i]t would appear that there is no definition” of military discipline.²⁰ The ensuing decades have not provided any meaningful clarity. Another student paper recently noted, “the actual definition of [good order and discipline] is murky at best.”²¹ Similarly, a recent study about diversity in the military concluded, “The concept of good order and discipline is “admittedly . . . somewhat vague.”²² Even the Navy’s senior enlisted sailor could not put the term into words, saying good order and discipline is “difficult to define but easy to sense.”²³

Military regulations do not define good order and discipline. A search of DoD regulations for “good order and discipline” reveals 20 results, but none of them defines the term. Similar results occur for service regulations. Air Force Instruction 1-1, for example, states that

¹⁹ Melissa Healy, “New Set of Marching Orders,” *Los Angeles Times*, 2 November 1992, http://articles.latimes.com/1992-11-02/news/mn-1144_1_cold-war.

²⁰ Major Herbert S. Ellis, “Is Discipline in the Air Force Adequate to Cope with Atomic War?,” (Maxwell AFB, AL: Air Command and Staff College, 1949), 4.

²¹ Major Anthony J. Ghiotto, “Back to the Future with the Uniform Code of Military Justice,” (Maxwell AFB, AL: Air Command and Staff College, 2014), 29.

²² James E. Parco and David A. Levy, *Attitudes Aren’t Free: Thinking Deeply About Diversity in the US Armed Forces* (Air University Press: Maxwell AFB, AL, 2010), 126 n.101.

²³ Master Chief Petty Officer of the Navy Mike Stevens, “Zeroing in On Excellence: Good Order and Discipline (Part 4), 23 November 2012, <http://navylive.dodlive.mil/2012/11/23/zeroing-in-on-excellence-good-order-and-discipline-part-4/>.

maintaining good order and discipline “is paramount for mission accomplishment,” but nowhere defines that term.²⁴ Likewise, Army Regulation 600-200 states several times that the commander must maintain good order and discipline but contains no discussion of its meaning.²⁵ A search of DOD and service websites revealed similar results: numerous references to good order and discipline but no substantive discussion of what it means or how it applies. Likewise, the Manual for Courts-Martial criminalizes any action prejudicial to good order and discipline but does not define the term, merely noting that a primary purpose of military law is to assist in maintaining good order and discipline, and generally addressing how directly actions must prejudice good order and discipline to constitute an offense.²⁶

With no definition existing, the author studied available public statements from military officials in recent decades that use the term. The study reviewed databases encapsulating DoD press conferences, legislative transcripts, major US newspaper stories, magazine articles, and military-specific publications.²⁷ A search of these databases revealed 2,883 documents that contained “good order and discipline” in the same document as “military” since the early to mid-1990s.²⁸ Of these 2,883 documents, only 648 (22.48 percent) used “good order and discipline” more than once, and only 243 (8.43 percent) used the phrase at least three times. This provides some preliminary support for criticisms that good order and discipline tends to be summarily

²⁴ Air Force Instruction (AFI) 1-1, *Air Force Standards*, 7 August 2012, ¶ 2.1

²⁵ Army Regulation 600-20, *Army Command Policy*, 6 November 2014.

²⁶ Manual for Courts Martial, United States, preamble ¶ 3; Part IV, ¶ 60c(2)(a).

²⁷ The broad databases searched were LEXIS’s “Major US Newspapers,” “Magazine Stories (Combined,” and “Legislative Transcripts” databases. In addition, the study individually queried the following military-specific publications: *Air Force Times*, *Army*, *Army Times*, *Defence Journal*, *Defense News*, *Inside the Air Force*, *Inside the Army*, *Inside the Navy*, *Inside the Pentagon*, *Jane’s Defence Weekly*, *Marine Corps Gazette*, *Marine Corps Times*, *Military Review*, *Navy Times*, *The Officer*, and *The United States Naval Institute: Proceedings*. Other military-specific publications (such as *Parameters* magazine) were not individually queried because they were included in the broad databases already searched.

²⁸ Most databases contained documents dating back to the early to mid-1990s. In instances in which the database contained documents before 1990, the search parameters were modified to only list results beginning on 1 January 1990, in order to keep the time periods of each database searched somewhat similar. All searches covered responsive documents through 31 December 2015.

invoked more than deeply explored. However, additional search modifications were not sufficient to explore criticisms that the military tends to invoke the phrase in response to proposed social/personnel or military justice changes.²⁹ A more in-depth examination was required to address this matter.

To achieve this, the author reviewed each of the 243 documents in which “good order and discipline” appeared at least three times in the same document as “military.” Limiting the in-depth study to these documents made the review more manageable and filtered out many of the documents in which the term was mentioned in a passing manner.³⁰ This review encompassed each instance in which a military official used the phrase “good order and discipline.”³¹ Of more than 1,000 utterances of the term “good order and discipline” in these 243 documents, the review then catalogued the instances in which military officials used the phrase in a communicative way. This resulted in 264 such instances.³²

²⁹ A search of the LEXIS databases for the phrase “good order and discipline” and “military” in the same document as “racial,” “gender,” “homosexual” or “military justice” revealed 1,705 responsive documents out of the original 2,883 retrieved. A search for the phrase “good order and discipline” and “military” in the same document as “combat,” “operations/operational” and “warfare” revealed 1,602 responsive documents out of these same 2,883 original documents. It is worth noting that the search terms used for social/personnel and military justice matters were fairly specific, while the search terms used for more directly operational references were more broad, possibly causing several documents to be counted in both categories.

³⁰ For example, many of the documents that contained the “good order and discipline” term just once mentioned disciplinary proceedings in a specific case but did not involve an attempt by a military official to communicate anything about good order and discipline. In addition, to filter out good order and discipline references that applied to a strictly legal context and to avoid skewed results caused by a handful of articles, several scholarly legal journals were excluded from the more in-depth review of documents in which “good order and discipline” appeared at least three times.

³¹ For purposes of this study, a “military official” included any speaker or writer identified as a military member of any rank, retired military member, or DoD civilian employee. It also included people identified as nominees for senior positions within the Department of Defense.

³² In several instances, military officials used the phrase “good order and discipline,” but did so merely when quoting a law or regulation, or when citing the name of a document, review, or entity. Likewise, numerous documents contained repeated references to “good order and discipline,” but not by military officials. These instances were not included in this study. Repeated references to good order and discipline within a single sentence, paragraph, or train of thought were counted as one responsive instance, while distinctly separate references within one document were each counted separately.

This more in-depth study revealed that military officials have overwhelmingly used the phrase “good order and discipline” in the context of social/personnel issues or military justice matters. Of these 264 studied uses of the term, 115 (43.56 percent) involved references to social/personnel policies, including homosexuals serving in the military, adultery, dress and appearance, religious expression, and extremist group membership. Good order and discipline references to military justice matters totaled 93, or 35.23 percent of the references. Thus, these two categories combined for nearly 80 percent of military officials’ total references to good order and discipline. Only 31 references (11.74 percent) alluded to operational matters (such as combat effectiveness, operations in Iraq or Afghanistan or detainee operations), while the remaining 25 references (9.47 percent) covered miscellaneous issues.

The study revealed three additional interesting findings concerning military leaders’ use of “good order and discipline.” First, the overwhelming majority of references (195, or 73.86 percent) came in Congressional hearings or DoD press conferences. This means military leaders mostly talked about good order and discipline when they were required to appear or in response to questions posed to them. Only rarely did they proactively discuss the term in newspapers, magazines, or military-specific publications.³³

Second, military officials used the term much more often when opposing proposed changes than when supporting changes. Good order and discipline was used in opposition to a proposed policy 113 times, while only 43 instances of the phrase could be considered as supporting a proposed change in policy.³⁴ Admittedly, some of degree of subjectivity was

³³ Additionally, several of the news media sources simply quoted statements by military leaders in Congressional hearings or press conferences, or in response to questions posed by reporters.

³⁴ The remaining instances where military officials used the phrase involving social/personnel or military justice proposals occurred neither in support of or in opposition to a proposed change in policy.

involved in this categorization, but a pronounced tendency to use the phrase in opposition to proposed changes was still apparent.

Finally, and most notably, even limiting the study to these 264 instances, military leaders almost universally employed the phrase in a summary manner, without effort to define the term or explain *how* or *why* good order and discipline supported their position. While again, some amount of subjectivity was involved in this calculation, at most, 12 of the 264 references could be considered an attempt to explain what good order and discipline means or what it requires in any depth. Even these 12 instances generally involved relatively brief discussion of what good order and discipline means, briefly equating the concept to notions such as obedience or command control. Almost all of the 264 statements exhibited a sense that good order and discipline is like Justice Potter Stewart's famous statement on the difficulty of defining obscenity: "I know it when I see it."³⁵ Notably, several leaders spoke of good order and discipline as a concept that only military "insiders" can understand, such as one Army General: "If you haven't served, many people say, 'Good order and discipline—that's a throwaway.' I can't throw it away so cavalierly."³⁶

Congressional officials picked up on this, repeatedly pressing for further explanation. In one hearing, Senator Gillibrand asked two witnesses "In your opinion, what precisely about this change would disrupt good order and discipline? What other recommendations [do] you have for dealing with these crises and actually getting results?" The first witness deferred to the other; the second answered the latter question, leaving the question about good order and discipline

³⁵ *Jacobellis v. United States*, in *United States Supreme Court Reports*, vol. 378 (1964), 197 (Stewart, J., concurring).

³⁶ Penn, "Son, Men Don't Get Raped," 244.

unanswered.³⁷ In panels discussing proposed military justice reforms, Senators repeatedly pressed military representatives specifically how proposed changes would impact good order and discipline, with little success. For example, Senator James Inhofe asked a General, “why don’t you give us just an example of how stripping this authority from the commanders affects his or her ability for maintaining good order and discipline or mission effectiveness, and why?”³⁸ The response generally discussed the need to try cases “quickly, visibly, and locally” and the broad need for unit cohesion, but did not discuss the connection between these concepts, the central role of commanders, and good order and discipline.³⁹ Likewise, in a 1998 Congressional hearing on Presidential misconduct, a Representative pressed an Admiral on the meaning of good order and discipline, asking, “What about the good order and discipline of the military . . . I’ve always heard the term ‘prejudice to good order and discipline.’ Could you tell us what that means?” The Admiral failed to answer the question.⁴⁰ Of those military leaders who did attempt to answer

³⁷ Federal News Service, Hearing of the Personnel Subcommittee of the Senate Armed Services Committee, Active, Guard, Reserve and Civilian Personnel Programs in Review of the Defense Authorization Request for FY 2014 and the Future Years Defense Program, 24 April 2013 (statements of Assistant Secretary of the Army for Manpower and Reserve Affairs Thomas R. Lamont Lamont and Lieutenant General Howard B. Bromberg).

³⁸ Senate Committee on Armed Services, *Sen. Carl Levin Holds a Hearing on Sexual Assault in the Military, Panel I*, 113rd Cong., 1st sess., 4 June 2013 (question by Senator James M. Inhofe).

³⁹ *Ibid.* (statement of General Raymond T. Odierno):

Well -- well, first off, in -- again -- as I said earlier, it's about quickly, visibly, and locally taking action. That -- very quickly make sure that the unit and other soldiers involved understand that this will not be tolerated. It also ensures them that action will be taken immediately.

And if we -- if we can't do it forward in theater, then it would delay action. It would potentially have a problem with witnesses, and so would cause us not to have something done quickly, very visibly and locally. So in my opinion, it -- it's about, again, continuing to have unit cohesion in a forward-operating capability that allows our soldiers to continue to perform their mission under very difficult conditions.

⁴⁰ FDCH Political Transcripts, House Judiciary Committee, *U.S. Representative Henry Hyde (R-IL) Holds Hearing on the Consequences of Perjury and Related Crimes*, 105th Cong., 2nd sess., 1 December 1998 (statement of Admiral (ret) Leon Edney). The question involved a politically-charged question about Presidential misconduct. Likely because of this, the Admiral demurred:

I don't believe that there's any straight, clear answer to that, because the military of this country serve under a different code, which you have recognized as the UCMJ. And the president operates under the civilian laws. The professional military of this country will perform their duties and loyalty to the Constitution and the office of the president. That is the strength of the military. Will it

these types of questions, most came in the context of military justice proposals and even then, their answers essentially just equated good order and discipline with unity of command—in other words, military commanders should be responsible for military justice decisions because commanders handle important issues in their units.⁴¹

Sometimes, good order and discipline seemed to be employed as a fallback position, invoked or repeated when a military official struggled to answer a question. Thus, an interviewer covering the possible repeal of “Don’t Ask, Don’t Tell” asked a retired General a difficult question about a letter from retired generals and flag officers opposing the repeal. The General struggled in his answer, eventually settling on: “Well, I think -- as I said, this is illustrated by the fact that this is a very sensitive issue and it has to be discussed over time and it has -- all sides have to be heard. But I think most of us who have served in the military believe that the standards of conduct is what determines the good order and discipline. So as long as conduct by all members of the military is not detrimental to the good order and discipline, then you have cohesion in the ranks.”⁴² Likewise, an Admiral pressed by Congress to answer why men and

undermine the good order and discipline to have that example? That’s like how you ensure safety. But it will not have a beneficial effect in the ability to measure the disadvantages or the adversarial effects as far as who stays in the military, who will come in the military, who will serve, and will the quality of the people -- we need a portion of this country’s best to serve in the military. So it’s hard for me to put an exact quantitative statement to your question, but certainly it is an issue that will not affect the performance of the military, but it might affect the quality and the numbers that make it a career.

⁴¹ Senate Committee on Armed Services, *Military Nominations*, 113rd Cong., 1st sess., 4 June 2013 (testimony by Lieutenant General Curtis M. Scaparrotti):

The commander’s role in military justice is long-standing and essential to the effectiveness of command in our forces. Removing commanders from the military justice system would signal a lack of confidence in our commanders that would undermine good order and discipline. It would foster doubt in our Service members in the competency and abilities of their commanders that are entrusted with their lives. The maintenance of good order and discipline is the responsibility of the Commander. Removing this responsibility would certainly erode the ability of a commander to effectively command his unit.

⁴² “This Week With George Stephanopoulos,” ABC News, 10 May 2009, transcript (statement of General (ret) Jim Jones).

women were not housed together in barracks responded: “Well, good order and discipline and they choose not to do it. Leadership is smart not to do it. They keep them separated for good order and discipline.”⁴³ An Army official pressed on victim advocacy support responded summarily (after noting that many victims are not military members): “So the good order and discipline ultimately will rule the day. And I think that’s probably the single most important feature in a command is good order and discipline in that command.”⁴⁴

Ultimately, this study reveals modern military leaders have primarily used the term good order and discipline in opposition to proposed social/personnel or military justice changes, but they have failed to define it or explain why it requires a certain policy. As a result, it is not surprising critics allege that “good order and discipline” serves as a rhetorical device for the military to oppose proposals it does not like, rather than a meaningful operational concept.

The Modern Understanding of Good Order and Discipline

To further explore whether criticisms about modern good order and discipline usage are warranted, the author surveyed two groups of senior Air Force military leaders about their understanding of the term’s meaning. The results support the conclusion that the military lacks a coherent view of good order and discipline’s meaning.⁴⁵

The author surveyed 26 senior enlisted members (sitting and inbound wing command chiefs, group superintendents, and senior enlisted advisors of other organizations), and 59

⁴³ Federal News Services, Subcommittee on Military Personnel of the House Armed Services Committee, Review of the Implementation Plans for the Repeal of Law and Policies Governing Service by Openly Gay and Lesbian Service Members, 112th Cong., 1st sess., 1 April 2011 (statement of Vice Admiral William E. Gortney).

⁴⁴ Federal News Service, House Armed Services Committee, *Sexual Assault Prevention and Response in the Armed Forces*, 108th Cong., 2nd sess., 3 June 2004 (statement of Assistant Secretary of the Army for Manpower and Reserve Affairs Reginald Brown).

⁴⁵ Colonel Jeremy Weber, Survey of Attendees at the Senior Enlisted Legal Orientation and the Senior Officer Legal Orientation (Maxwell, AFB, AL: The Air Force Judge Advocate General’s School, 13 and 28 January 2016). The survey results are included at Appendixes I and II. The author wishes to express his gratitude to Colonel Kirk Davies and the rest of the faculty and staff at The Air Force Judge Advocate General’s School for their assistance in conducting this survey.

Colonels and Colonel-selects (sitting and inbound wing commanders, vice wing commanders, group commanders and equivalent-level leaders). The results showed participants had a high degree of confidence that they understood what good order and discipline means: 88.5 percent of enlisted members and 83 percent of officers averred that they either know what good order and discipline means and could define it, or could not define it exactly but would “know it when they saw it.”⁴⁶ However, their other answers revealed wide disagreement as to what good order and discipline actually connotes.

Respondents were directed to select up to three characteristics they most closely associated with the meaning of good order and discipline from a list of ten. Only one characteristic was selected by a majority of respondents in both groups—accountability.⁴⁷ (A second category, disciplinary actions in response to misconduct, was chosen by a narrow majority of enlisted participants but not officers.) Participants selected the remaining nine characteristics in somewhat equal amounts; with one exception among enlisted participants only, each of the 10 characteristics was selected by at least 15 percent of participants.⁴⁸ More notably, when asked to write out a definition of good order and discipline, participants took significantly different approaches. Several definitions focused on mission accomplishment, but the means by which good order and discipline was to enable mission success were quite varied. Participants discussed a range of concepts ranging from respect to morale to command authority to communication. Some common themes emerged, but no two definitions were identical and few were even close to being so.

⁴⁶ Ibid.

⁴⁷ Ibid. Of senior officers surveyed, 64.9 percent selected accountability as one of their three defining characteristics of good order and discipline. Among surveyed senior enlisted members, 57.7 selected accountability.

⁴⁸ Ibid.

Additionally, 92.3 percent of enlisted respondents and 88.1 percent of officers believed the military generally possess a high degree of order and discipline compared to earlier periods, but when asked to list measures to judge order and discipline in their units, their answers again varied widely.⁴⁹ In general, the survey indicated that respondents viewed “good order and discipline” as a generic term that encapsulated other, more specific military traits, but they lacked agreement as to what these more specific traits were. At least from an Air Force perspective, the survey results seem to support criticisms that this purportedly core military concept may be less concrete than the military has espoused.

The Unaddressed Questions of Good Order and Discipline

The tendency of military leaders to use good order and discipline in a conclusory, generic, and diverse manner may be somewhat understandable. It is an elusive concept that may mean different things in different contexts. Locking a large, diverse organization into one uniform definition may have some drawbacks. However, the problem is not that the military has tried and failed to reach an agreement about good order and discipline’s meaning. Rather, it exhibits an almost total lack of interest in even having the conversation. Moreover, this failure to substantively discuss good order and discipline comes at precisely the time when the military needs this discussion the most.

Good order and discipline’s meaning transforms over time. As the environment in which the military operates changes—the nature of warfare, the pool of people from which the military draws, and society’s expectations on how military members will be treated—so too should the meaning of good order and discipline. As one 1972 Air Command and Staff College paper noted: “Historically, discipline has been the cornerstone of all military organizations. Unfortunately, the

⁴⁹ Ibid.

cornerstone has never remained cemented in place.”⁵⁰ The American military has changed in many respects since ancient Roman, Revolutionary War, or even World War II-era views on good order and discipline. The formation of an all-volunteer force has brought different demographics, attitudes, and challenges to the military.⁵¹ Thus, one would not expect older views about good order and discipline’s meaning to translate perfectly to today, and new questions about the topic need to be asked and addressed. For example, the changing composition of the military raises new questions. In an environment where the military has to compete with other employers for trained, skilled and educated people, can the military afford to hold to a more traditional view of good order and discipline that analogizes military members to children?⁵² Can the military afford to impose the sort of rigorous training methods traditionally associated with the installation of good order and discipline?⁵³ A traditional view holds: “Inside every army is a

⁵⁰ Major Billy J. Helton, “Discipline – an Unsolved Problem” (Maxwell AFB, AL: Air Command and Staff College, 1972), 1.

⁵¹ Beth Bailey, *America’s Army: Making the All-Volunteer Force* (Cambridge, MA: The Belknap Press of Harvard University Press, 2009).

⁵² Ellis, “Is Discipline in the Air Force Adequate to Cope with Atomic War?,” 11-12:

If a child sees a bright glittering object, it attracts the child’s eye and it is normal for him to reach out for it. If the object happens to be fire, the child will be burned. From that moment on he will be very cautious about grasping for bring objects. Mothers normally teach children not to grasp for things which might hurt them by slapping the hand of the child. This method inflicts pain but to a much lesser degree than does burning and it does not inflict nearly so much actual physical damage. This same method is used to correct any tendency on the part of the child to do anything which might harm him. This slapping is an effective method of teaching a child what to do and what not to do. By teaching the child to fear the slap he can be protected from more serious hurts.

...

So it is with the soldier before he has been subjected to war. Discipline is irksome and at first he dislikes it. The reason for discipline can be explained to him but how can he possibly understand it if he has never been subjected to the shock of war. Once he has been in action, if he is intelligent at all, he will, in all probability, immediately understand the necessity for discipline. He can then recognize that he was being conditioned to withstand something which he could not possibly foresee or understand. So the problem is – can you teach a man and make him understand by lecturing what experience indicates must be learned the hard way? Can troops ever really understand the need for military discipline until after they have been subjected to actual combat? They are at this point brought face to face with a situation which they have never met before in their lives. How then is it possible for them to understand the necessity for military discipline?

⁵³ William Ernest Hocking, *Morale and Its Enemies* (New Haven, CT: Yale University Press, 1918), 119-120 (discussing the need to impose loss of personal freedom and arbitrary stress in order to impose discipline; discipline

crowd struggling to get out, and the strongest fear with which every commander lives—stronger than his fear of defeat or even of mutiny—is that of his army reverting to a crowd through some error of his making. For a crowd is the antithesis of an army, a human assembly animated not by discipline but by mood, by the play of inconstant and potentially infectious emotion which, if it spreads, is fatal to an army's subordination."⁵⁴ Is this observation still true today when a majority of military members are married and over age 25, and many have at least some college education?⁵⁵ If not, should this cause any change in training policies? Should commanders continue to hold a high degree of authority, when their subordinates may be increasingly mature and thus somewhat able to discipline themselves?

The nature of military missions has also changed. One substantive recent examination explains that good order and discipline is necessary because the military demands three unique and unnatural actions from its members: to kill other human beings, to risk being killed themselves, and, when necessary, to refrain from killing others when threatened.⁵⁶ But modern American warfare is often more scientific and distant than the fighting associated with traditional good order and discipline notions.⁵⁷ In this environment, to what degree does Clausewitz's warning about war's "primordial violence, hatred, and enmity" tendency apply, and what role

"means subjections of the body to the mind; it means the superiority of the human spirit to the last efforts of wind and weather, and the demons of fear, pain, and fatigue. It is the element of Stoicism without which no man can do his living well.")

⁵⁴ John Keegan, *The Face of Battle* (New York, NY: Penguin Books, 1976), 163.

⁵⁵ Office of the Deputy Assistant Secretary of Defense (Military Community and Family Policy), "2013 Demographics: Profile of the Military Community," <http://download.militaryonesource.mil/12038/MOS/Reports/2013-Demographics-Report.pdf>.

⁵⁶ Colonel Kenneth M. Theurer and James W. Russell III, "Why Military Justice Matters," *The Reporter*, Vol. 37, no. 2 (Summer 2010), 8.

⁵⁷ Mark Stout, "Where Has All the Hatred Gone?," *War on the Rocks*, 13 November 2015, http://warontherocks.com/2015/11/where-has-all-the-hatred-gone/?utm_source=WOTR+Newsletter&utm_campaign=d5cffdd132-WOTR_Newsletter_8_17_158_15_2015&utm_medium=email&utm_term=0_8375be81e9d5cffdd132-82946029 (noting that modern warfare has "largely removed the people from military affairs," and speculating whether "modern, Western militaries don't need hatred because their members are more distinct and more disconnected from vast swathes of the population than they were in a nation mobilized for war.")

does good order and discipline play in constraining this irrational tendency?⁵⁸ In any event, *how* does good order and discipline effect these three unnatural actions? Is it by conditioned obedience to authority, as several traditional works argue and some views still hold?⁵⁹ What does good order and discipline mean in an age where unquestioning obedience could contribute toward wartime atrocities?⁶⁰ Additionally, modern warfare often employs smaller, more disbursed units tasked to operate with flexibility and initiative.⁶¹ How does this affect good order and discipline's meaning? Does the changing nature of warfare change the whole idea of good order and discipline from a fairly clear tactical meaning (failure to follow orders in combat can get nearby people killed unnecessarily or cause mission failure) to a more broad, amorphous meaning involving some mix of unit cohesion, deterrence, accountability, military culture, or command control?⁶²

Moreover, the relationship between justice and good order and discipline remains unanswered. Undersecretary of the Navy nominee Dr. Jo Ann Rooney ran into difficulty during Congressional testimony when she expressed concern about having a judge advocate make court-

⁵⁸ Carl von Clausewitz, *On War*, ed. and trans. Michael Howard and Peter Paret (Princeton, NJ: Princeton University Press, 1976), 83.

⁵⁹ Vegetius, *The Military Institutions of the Romans*, 39 (opining that training instills "exact observance of discipline . . . and unwearied cultivation of the other arts of war"); Louis B. Nichols, "The Justice of Military Justice," *William & Mary Law Review* 12, no. 3 (1971), 484 ("Discipline instills in a soldier a willingness to obey an order no matter how unpleasant or dangerous the task to be performed."); Defense Legal Policy Board, *Report of the Subcommittee on Military Justice in Combat Zones*, 30 May 2013, 21, <http://www.caaflog.com/wp-content/uploads/20130531-Subcommittee-Report-REPORT-OF-THE-SUBCOMMITTEE-ON-MILITARY-JUSTICE-IN-COMBAT-ZONES-31-May-13-2.pdf>.

⁶⁰ Mark J. Osiel, "Obeying Orders: Atrocity, Military Discipline, and the Law of War," *California Law Review* 86 (October 1998), 939.

⁶¹ Lieutenant Commander Christopher E. Van Avery, "12 New Principles of Warfare," *Armed Forces Journal* (July 2007), 24.

⁶² Andrew T. Horne, "Unit Cohesion?," *Marine Corps Gazette*, February 2001, 45 (defining good order and discipline in terms of unit cohesion); Donald G. Rehkopf and Marybeth P. Ulrich, "On The General Stanley McChrystal Affair," *Parameters* (Autumn 2011), 87 (equating good order and discipline with deterrence); Specialist Miranda Johnson, "How Would the Lack of Discipline and Standards Affect the Army Profession?," <http://mrmc.amedd.army.mil/content/awards/docs/2013feb-essaywinner.pdf> ("Through the teaching and instilment [sic] of Army standards and discipline, we honor and respect the rich heritage which the Army is founded upon, while also ensuring the future success of the Army by inspiring us to adhere to and exceed the standard.")

martial decisions instead of a commander. Her statement, “I believe the impact would be decisions based on evidence rather than the interest in preserving good order and discipline,” drew Senator Gillibrand’s criticism, and the White House ultimately withdrew the nomination.⁶³ However, the controversy reflects a long-standing unresolved question: What is the relationship between justice in a legal sense and good order and discipline? The traditional view was that good order and discipline demanded suppression of some legal rights, a view that lasted until World War II.⁶⁴ After the war, however, Congress attempted to balance the need for discipline with a more just system, aiming for “a middle ground between the viewpoint of the lawyer and the viewpoint of the general.”⁶⁵ This attempt to “balance” justice and discipline remains central in the military justice system, assuming some sort of tension between the two concepts.⁶⁶ Some military leaders, though, have recently opined that there is no conflict between these ideas;

⁶³ Senate Armed Services Committee, *Defense Department Nomination*, (10 October 2013) (testimony by Dr. Jo Ann Rooney); Senate Armed Services Committee, “Senator Carl Levin Holds a Hearing on Defense Nominations,” (10 October 2013); Christopher P. Cavas, “White House Withdraws Nominee for Navy’s No. 2 Post,” *USA Today* (13 November 2014). <http://www.usatoday.com/story/news/nation/2014/11/13/navy-rooney-nomination-withdrawn/18998941/>.

⁶⁴ Victor Hansen, *Changes in Modern Military Codes and the Role of the Military Commander: What Should the United States Learn from this Revolution?*, 16 TUL. J. INT’L & COMP. L 419, 426 (2008) (“From the colonial period until well into the twentieth century, U.S. military commanders enjoyed a position of almost absolute power within the military justice system”); Robert Sherrill, *Military Justice is to Justice as Military Music is to Music* (New York, NY: Harper & Row, 1970), 63-64 (expressing a traditional view that “So long as a serviceman can assure himself, ‘I have the right to act, within constitutional limits,’ he is a potential troublemaker. The less assurance a serviceman has of possessing any practical rights, the more likely will he be to shrink from action beyond that authorized by command.”); *United States v. Bauerbach*, 55 M.J. 501, 502 (A. Ct. Crim. App. 2001) (“Up until World War I, commanders and the public felt that the disciplining of troops was primarily commanders’ business, because a commander who could be trusted to take his troops into combat could also be trusted to treat them fairly in courts-martial”); John H. Wigmore, *Lessons from Military Justice*, 4 J. Am. Jud Soc’y 151 (1921) (quoted in David A. Schlueter, “The Military Justice Conundrum: Justice or Discipline?,” *Military Law Review* 215 (Spring 2013), 22).

⁶⁵ Report of War Department Advisory Committee on Military Justice, 13 December 1946, 5, http://www.loc.gov/r/r/frd/Military_Law/pdf/report-war-dept-advisory-committee.pdf.

⁶⁶ *Manual for Courts Martial, United States*, preamble ¶ 3 (“The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the armed forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States.”)

promoting justice automatically strengthens good order and discipline.⁶⁷ How exactly these two interests are to be “balanced” remains unclear.⁶⁸

Finally, there is surprisingly little analysis as to the state of good order and discipline in the modern military. Does the military today enjoy a high level of good order and discipline or is it facing a crisis of indiscipline? The military has no answer to this question because, as the survey of senior Air Force members indicated, it has no way to measure good order and discipline. Should the military have some gauge on level of good order and discipline, perhaps involving a combination of combat effectiveness, the prevalence of war crimes, court-martial and non-judicial punishment rates, unit climate surveys, and inspections? If the military has no way of measuring order and discipline, how can it hope to achieve it?

The shorthand use of good order and discipline primarily in opposition to proposed social/personnel and military justice changes provides no answers to how good order and discipline relates to the modern military environment. Sadly, substantive discussion about the meaning and implications of good order and discipline has largely ceased at the time when the military needs it most.

⁶⁷ Committee for Evaluation of the Effectiveness of the Administration of Military Justice, “Report to General William C. Westmoreland,” 1 June 1971, 43, https://www.loc.gov/r/frd/Military_Law/pdf/Report_General-Westmoreland.pdf (“To the extent that a court-martial is an instrument of justice and that our system of military justice is administered fairly and impartially, morale and discipline will be maintained and enhanced.”); Committee on the Uniform Code of Military Justice, Report to Honorable Wilbur M. Brucker, Secretary of the Army, “Good Order and Discipline in the Army,” 18 January 1960, 11 (“[I]t is a mistake to talk of balancing discipline and justice—the two are inseparable. An unfair or unjust correction never promotes the development of discipline.”); Harding, “A Revival in Military Justice,” 5-6 (“By protecting our recruiting and retention pipelines, due process safeguards our combat effectiveness. Conversely, when we permit due process to suffer, we discourage enlistment of America’s best and brightest; we demoralize and discourage the retention of currently-serving Airmen, who worry they will likewise be treated unfairly, and as a consequence, we degrade military discipline and combat effectiveness.”); Dunlap, “Military Justice,” 245 (observing that the military justice system’s balance has increasingly tilted toward justice and away from good order and discipline in recent decades).

⁶⁸ Schlueter, “The Military Justice Conundrum,” 74; Homer E. Moyer, Jr., *Justice and the Military* (Public Law Education Institute, 1972), § 1-150 (“Is a criminal justice system whose object is ‘discipline’ characterized by features that distinguish it from a system whose object is ‘justice,’ or is the difference only semantic? If the difference is real, is the object of military justice discipline and, if so, should it be?”)

Recommendations and Conclusion

Ironically, the term good order and discipline is itself apparently in a state of disorder, a victim of undisciplined usage. The military holds to the notion that it remains different from society, requiring a greater emphasis on good order and discipline than civilian life demands. However, its inability (or refusal) to explain *why* and *how* it is different, and *what* exactly good order and discipline means today, imperils the very interests the military values.

Three brief conclusions present themselves as a result of this study. First, the military needs to stop using good order and discipline as a rhetorical catchphrase in public debates about proposed policy changes. When military leaders use the term, they should be prepared to explain it. Second, the military needs to engage in a deeper conversation about what good order and discipline means in modern times. Commanders and lawyers, with their different perspectives, both need to be part of this discussion. Third, after this discussion takes place, the military needs to issue some definitive guidance about what good order and discipline means, using the questions identified above as a framework for analysis. Without addressing these fundamental issues, the military will not really know what good order and discipline means today. If it cannot explain the idea to itself, it will not be able to explain it, and skepticism will grow. The “soul” of the American military is at stake; a disorderly, undisciplined approach to this question simply will not suffice.

Appendix I – Senior Leader Surveys (Enlisted Members)

The author surveyed 26 attendees at the Senior Enlisted Legal Orientation Course in January 2016. Course attendees were a mix of sitting and inbound wing command chiefs, group superintendents, or senior enlisted advisors of other military organizations.

- 1) Which statement best captures your view on the meaning of good order and discipline in the military?
 - I know what it is and I can define it: 50 percent (13 responses)
 - I can't define it, but I "know it when I see it": 38.5 percent (10 responses)
 - I have some general sense of what good order and discipline means, but its exact meaning is unclear: 3.8 percent (1 response)
 - I don't really know what good order and discipline means: 0 percent (no responses)
 - No answer: 7.7 percent (2 responses)
- 2) Of the following concepts and issues, which do you most closely associate with the notion of good order and discipline in the military? (Choose up to three)
 - Accountability: 57.7 percent (15 responses)
 - Disciplinary actions in response to misconduct (e.g, courts-martial, Article 15 actions, LORs): 53.8 percent (14 responses)
 - Ensuring combat effectiveness: 42.3 percent (11 responses)
 - Military culture: 30.8 percent (8 responses)
 - Unit cohesion: 26.9 percent (7 responses)
 - Personnel policies (e.g., dress and appearance rules, policies regarding women in combat units): 23.1 percent (6 responses)
 - Morale: 23.1 percent (6 responses)
 - Obedience to orders: 23.1 percent (6 responses)
 - Command authority: 15.4 percent (4 responses)
 - Deterrence from committing misconduct: 3.8 percent (1 response)
- 3) In a sentence or two, how would you define the term "good order and discipline in the military"?
 - "In my opinion, 'good order and discipline in the military' is defined as an environment where everyone is treated fairly, held accountable, treated with dignity and respect, which cultivates a healthy working environment and fosters a culture of compliance."

- “Good order and discipline is the adherence to set standards for all personnel. It provides the foundation of mission accomplishment.”
- “It’s what makes us a professional organization. It’s all about respect for people and regulations as well as accountability.”
- “The knowledge of all unit members to understand and apply the practices required to accomplish the unit’s mission.”
- “The unit environment balanced with defined expectations of accountability and results for noncompliance to ensure readiness for home station and missions.”
- (No answer)
- “The ability to execute the mission with cohesion and focus. The lack thereof denotes a breakdown in good order and/or discipline.”
- “[It] is the ability to effectively execute your mission while maintaining good or high morale and also holding your personnel accountable for their part of the mission to include executing (properly) their daily responsibilities.”
- “When a unit possesses the ability to be mission ready without sacrificing to members in terms of morale and quality of life.”
- “Doing what’s right and be willing to correct mistakes or infractions made by others or yourself.”
- “A healthy climate and culture void of toxic leadership.”
- “Standards are known, understood, and upheld. Discipline (when necessary) is fair and equitable.”
- “Order—the logical sequence of doing something. Discipline—a set of duties that can be carried out by an individual without supervision.”
- “I believe good order and discipline is abiding internalizing our military culture of core values and being accountable for your actions through behavior, respect for authority and orders given to you.”
- “Good order and discipline is defined in my own terms: a unit [that] executes obedience to orders, understands our need for order and holding people accountable when they violate orders.”
- “A unit that is effectively performing the mission and abides by the USAF core values. Each Airman treats others with dignity and respect.”
- “Doing what’s right always for the mission and your troops; holding people accountable to standards. Not crossing the line of doing something illegal, immoral and unethical.”
- “Treating people with dignity and respect in upholding the values that enable the service to perform and execute the mission.”
- “Airmen conduct themselves with the guiding orders of the Air Force and their moral code of ethics which are established through training and teachings of the

Air Force and DoD. Personnel who act contrary to this are/will receive some level of correction.”

- “Military members following a generally accepted set of rules that personnel are expected to follow.”
- “All military members have a responsibility to act in a manner that represents them and the country they serve in a dignified and respectful light.”
- “A unit that performs the mission with the utmost professionalism. If morale is high within the unit, there is usually good order and discipline associated to morale.”
- “The culture of adhering to established rules and regulations to enable combat effectiveness.”
- “The ability and willingness to follow and execute the highest standards. Lead by example.”
- “Focused, professional, obedient military members, motivated to accomplish the mission.”
- “Understanding and using the chain of command to solve issues at the lowest levels and using corrective action to vector individuals to the right path—either inside or out of the military.”

4) In general, does the military possess a high degree of order and discipline compared to previous periods in its history?

- Yes: 92.3 percent (24 responses)
- No: 7.7 percent (2 responses)

5) As a leader, what indicators would you use to determine whether your unit possessed good order and discipline?

- “Effectiveness, efficiency, productivity, morale, and enthusiasm.”
- “Adherence from all members concerning the UCMJ and all AFIs. The fact that the unit does not accept substandard work and the highest standard/output becomes the norm. A unit culture of fairness and acceptance.”
- “Morale, mission accomplishment, and safety.”
- “Mission accomplishment, teamwork, and the absence or minimal acts of buffoonery, and how the unit comes together to address turmoil/trying times.”
- “Morale, or lack thereof, is the first indicator of a unit’s good order and discipline. Indicators of misconduct (DUI, failure to go, drug use) will increase as morale decreases. Maintaining the pulse of the unit is crucial to course correct early.”
- “High morale, even punishment, no favoritism or perceived favoritism, equal treatment.”
- “Mission effectiveness, UCA results, number of CDIs and NJP.”

- “High morale, mission execution, very little misconduct.”
- “Mission readiness, good morale/quality of life, amount of disciplinary activity and types of activity based on historical data.”
- “High morale, teamsmanship, mission accomplishments, celebrating Airmen’s achievements.”
- DEOCS survey, EO focus groups, SOD.”
- “Policies are understood, available. Everyone knows and follows the rules.”
- “Discipline develops morale, which is measured by readiness.”
- “Climate assessments, feeling the pulse of the culture in general and respect for leadership, inclusion, etc.”
- “Morale, misconduct.”
- “Cohesive unit that works together, plays together, yet treats all members with dignity and respect. The unit not only accomplishes the mission but always strives to improve.”
- “Number of visits to the JAG office and is the mission getting done with personnel having high morale and pride in the unit.”
- Culture of the unit as demonstrated by morale, feedback and disciplinary trends.”
- “Overall climate of a unit of both infractions and stellar performance.”
- “Results of climate assessments, number of actions in status of discipline briefings, number of courts-martial/punitive actions, unit morale and cohesion, discipline measures, etc.
- “Data on administrative/UCMJ actions. DEOCS surveys.”
- “Morale, mission accomplishment.”
- “How much discipline is being handed out at all levels within the command, and the culture/morale of the unit.”
- “Proper uniform wear, adherence to customs and courtesy. Leadership up and down the chain.”
- “On time rates, inspection results, number of discipline issues. Dress and appearance overall.”
- “High morale, appropriate and fair disciplinary action. High and visible leadership at all levels.”

Appendix II – Senior Leader Surveys (Officers)

The author surveyed 59 attendees at the Senior Officer Legal Orientation Course in January 2016. Course attendees were a mix of sitting and inbound wing commanders, wing vice commanders, group commanders, and equivalent-level leaders.

- 1) Which statement best captures your view on the meaning of good order and discipline in the military?
 - I know what it is and I can define it: 54.2 percent (32 responses)
 - I can't define it, but I "know it when I see it": 28.8 percent (17 responses)
 - I have some general sense of what good order and discipline means, but its exact meaning is unclear: 13.6 percent (8 responses)
 - I don't really know what good order and discipline means: 0 percent (no responses)
 - No answer: 3.4 percent (2 responses)
- 2) Of the following concepts and issues, which do you most closely associate with the notion of good order and discipline in the military? (Choose up to three)⁶⁹
 - Accountability: 64.9 percent (37 responses)
 - Obedience to orders: 38.6 percent (21 responses)
 - Disciplinary actions in response to misconduct (e.g., courts-martial, Article 15 actions, LORs): 33.3 percent (19 responses)
 - Ensuring combat effectiveness: 33.3 percent (19 responses)
 - Military culture: 24.6 percent (14 responses)
 - Unit cohesion: 22.8 percent (13 responses)
 - Command authority: 21.1 percent (12 responses)
 - Deterrence from committing misconduct: 17.5 percent (10 responses)
 - Personnel policies (e.g., dress and appearance rules, policies regarding women in combat units): 15.8 percent (9 responses)
 - Morale: 15.8 percent (9 responses)
 - Other: 7.0 percent (4 responses)
- 3) In a sentence or two, how would you define the term "good order and discipline in the military"?

⁶⁹ In some instances, respondents selected fewer than three responses. Additionally, two survey responses were discarded because respondents did not follow instructions to limit their selections to a maximum of three. Percentages are based on the remaining 57 survey responses.

- (No answer)
- “Adherence to the UCMJ and policy/procedure to ensure combat effectiveness in an environment where all members are respected/valued and there is accountability for actions both positive and negative.”
- “Airmen understanding mission, how they fit in the mission, doing that mission within the standard and regulations of the Air Force.”
- “Airmen have 100 percent faith in their leadership chain to know they have the proper environment in which to best perform their mission.”
- “All the rules matter from the color of your socks to the length of your hair . . . good order and discipline exists when Airmen embody this and hold themselves and others accountable.”
- “‘Good order and discipline’ is obeying orders of our superiors and military and civilian leaders—respecting the military culture.”
- “The state of order which allows a commander to give direction and have his unit achieve the mission.”
- “Appropriate use of chain of command. Doing what’s right when others aren’t looking. Being a part of a well-run organization.”
- “Unit members adhering to the known standards of the Air Force and self-correcting at the appropriate supervision levels.”
- “Ensuring standardization and consistency of military practices to foster unit cohesion and accomplish mission objectives.”
- “Leaders state clearly their expectations and hold their subordinates accountable for meeting standards. Leaders and subordinates also trust and respect one another to take care of their interests (loyalty up and down the chain of command).
- “The organizational characteristics that underpin a unit’s ability to successfully accomplish the mission and respond to adversity in combat.”
- “Doing what is right when no one is looking.”
- “Doing the right thing without the requirement for constant oversight.”
- “Mission completion/effectiveness—ability to get job done. Unit morale—level of motivation.”
- “Ability to conduct the mission effectively while complying with rules and regulations.”
- “The degree to which one follows all lawful orders and acts in a positive fashion within [a] unit to effect the mission. In addition, holding members accountable for violating good order and discipline.”
- “Professionalism of the Airmen within the unit. Pride in the wear of the uniform and the performance of the mission.”
- “A well-run and self-policing organization that is effective in accomplishing its assigned mission.”

- “Being held to the highest standard.”
- “Ability of a unit to function effectively.”
- “Action taken with integrity, which abides by legal orders and guidance.”
- “Being fair and consistent, with timely decisions, in all aspects as a leader and commander.”
- “Good order and discipline exists when individuals elevate the good of the unit and mission above their personal needs or desires. This can (should) result in better unit cohesion, pride and effectiveness.”
- “Good order and discipline is a mission enabler, which an effective fighting force requires to prevent risk to the Airman and/or mission.”
- “Discipline is easier to define for me as it pertains to the ability to adhere to the laws, rules and regulations. Good order is the ability to meet and exceed expectations of the leadership overseeing the unit.”
- “A state of culture in a military unit where the preponderance of orders are followed to the best of the ability of the member and the level of cognitive dissonance at following the leader of the unit is relatively low compared to the unit’s morale and mission effectiveness.”
- “Upholding standards to ensure the successful execution of the mission.”
- “Good order and discipline, in my mind’s eye, is (1) Doing what’s right for the greater good of the enterprise and (2) Ensuring the proper example is set and viewable from your leadership (and cascading down).
- “Understanding, following and upholding the rules and standards. Living core values.”
- “The ability for a unit to follow established norms, principles and procedures to effectively accomplish the mission.”
- “Culture and behavior that meets the current (always changing) acceptable norms.”
- “High effectiveness and morale.”
- “Everyone knows how and what to do and they are doing it. If the leader were to be removed, it wouldn’t matter.”
- “The ability to accomplish the mission while abiding by law, rules of engagement, and adhering to instructions.”
- “Creating an environment where there is a culture that personnel can feel comfortable to accomplish their mission.”
- “The culture of respect shaded by a commander and their unit. This culture embodies discipline and difference amongst its members and the unit as an entity.”
- (No answer)

- “Rules/culture that assist mission accomplishment and consequences for not following them.”
- “Allowing unit to focus on its mission without/with minimal distractions.”
- “Adhering to standards, enforcing standards, holding yourself and others accountable.”
- “The ability for Airmen to execute their assigned mission; knowing they have the training, knowledge and leadership to perform their assigned duties.”
- “When members of an organization trust that the right people are being recognized for the good they do, that justice is served, and members trust their chain of command.”
- “State of being for a unit that is conducive to promoting the Air Force Core Values while efficiently and effectively carrying out the mission.”
- “The positive actions and structure associated with unit mission accomplishment.”
- “I said that ‘I can’t define it’ . . . but if I must, it would be a state of unit readiness characterized by reliable effectiveness, strong/shared AF values and low variability in conduct.
- “Adhering to UCMJ and the orders/direction of the chain of command. Policing yourself and those around you and holding each other accountable.”
- “Strict adherence to a set of rules and values that enable combat effectiveness and an organization with a professional culture. (Professional meaning a self-policing vocation).”
- “Establishing clear expectations to ensure compliance in all things that matter.”
- “A well-oiled machine that runs smoothly without significant disciplinary issues.”
- “Military members actually accustomed to and dedicated to upholding morale standards to accomplish the mission.”
- “Good order and discipline in a military setting is people obeying the rules which affects culture, morale, retention, and our ability to win wars effectively.”
- “The ability to accomplish the mission with minor distractions.”
- “A concept that determines/defines a unit’s ability to do its mission, including actions required in war; measured in morale, cohesiveness, and adherence to standards.”
- “Following the rules even when no one is looking and holding people accountable.”
- “Follow core values to ensure mission effectiveness.”
- “Adherence to standards and orders.”
- “Airmen make best decisions in support of the mission ahead of personal desires or motivations.”

- “It corresponds to our core values. In units with good order and discipline, Airmen do what they are supposed to do even when no one is watching, they think of themselves less and others more, and they want to excel at whatever they are asked to do.”
- 4) In general, does the military possess a high degree of order and discipline compared to previous periods in its history?
- Yes: 88.1 percent (52 responses)
 - No: 8.5 percent (5 responses)
 - “It depends on which period you’re referring to”: 1.7 percent (1 response)
 - “Probably better but more ‘zero tolerance’ than past”: 1.7 percent (1 response)
- 5) As a leader, what indicators would you use to determine whether your unit possessed good order and discipline?
- “Mission effectiveness; ‘Wingman’ culture; individual sense of accountability; adherence to standards (small to large); communication channels open and well-used up and down the chain.”
 - “Respect for orders and compliance with policy/procedure.”
 - “Mission execution; Airmen accountable to standard/regulations and keep each other accountable; meeting standards/regulations; environment respect and dignity.”
 - “Mission accomplishment, cohesion, esprit de corps.”
 - “Attention to detail and [holding equals?] accountable.”
 - Climate assessments, inspections, walk arounds, SOD and surveys.”
 - “Mission accomplishment—are we getting the job done? Are folks getting in trouble?”
 - “Meeting/exceeding the mission with minimal disciplinary actions. High morale in the unit with a team that wants to be there for each other.”
 - “Number of NJP actions; how we meet mission performance metrics (aircraft on time departures, sorties completed). Good morale.”
 - “Adherence to regulations and policies. Focus on unit mission. Success in evaluations, operations, inspections.”
 - “Unit members take pride in the way they and their work areas look. Subordinates follow commands without being hounded repeatedly (or at all) for completion. They offer customs and courtesies appropriately and show respect to everyone up and down the chain.”
 - Combat performance. Adherence to standards. Follows orders. Accountability. Open communication, candor, critical feedback.”
 - “Dress and appearance, punctuality, following AFI/guidance.”

- “Flight safety, minimal NJP required, basic interpersonal respect shown to superiors/subordinates/peers.”
- “Compliance with the small stuff.”
- “Superior, subordinate, peer feedback. Mission success—measurements of effectiveness. Organizational climate assessment tools.”
- “Do they follow the simple rules—if yes, then they [are] likely to follow the ‘bigger rules.’”
- “I look for the small things. Customs and courtesies, uniforms and pride in the unit and mission accomplishment.”
- “Adherence to standards. Morale. Command influence, role of commander.”
- “1. Follows rules. 2. Structured. 3. Respects [illegible].”
- “Ability to accomplish the mission. Morale.”
- “Attention to details.”
- “Fairness and consistency with status of discipline; having an open door policy to ensure effective communication with all Airmen—and to expect the same among subordinate commanders.”
- “Adherence to standards. Freedom to explore ideas. Selfless approach to the mission. High morale and job satisfaction.”
- “Disciplinary actions. Mission readiness. Climate surveys.”
- “Obedience, accountability, high level of efficiency and effectiveness.”
- “UCS, feedback from Airmen.”
- “Mission accomplishment (sortie rates, effectiveness, etc.) Physical fitness trends. Stewardship of resources. Discipline actions.”
- “I observe my immediate, subordinate leaders and how they guide, motivate, educate and manage. Additionally, I observe the actions of my junior ranking members.”
- (No answer).
- “Climate surveys, SOD briefings.”
- “Adherence to core values, loyalty, professional behavior, effective and efficient command and control and communication, mission effectiveness at acceptable levels.”
- “Environmental surveys and informal feedback sessions.”
- “Professional, clean, ready.”
- “SOD metrics, dress and appearance, customs and courtesy.”
- “Tools for surveys, climate surveys, discussions with commanders and chiefs, discussions with troops.”

- “Accidents/mishaps, timeliness of reports and most importantly respect for other Airmen in unit.”
- “Overall military bearing, interpersonal relations, appearance of people and places, success in accomplishing the mission, strong sense of belonging, great morale.”
- “Effectiveness, morale.”
- “Morale, effectiveness, cohesion.”
- “Morale, climate, response to discipline trends, rehab success, accomplishing the mission successfully.”
- “Airmen having/displaying confidence in their ability to complete their assigned mission. Airmen having pride in their unit/mission.”
- “Morale, unit performance, overall sense of pride displayed in the organization.”
- “Climate assessment, leadership (squadron) feedback, individual feedback, unit culture.”
- “Morale, unit mission completion success, number of disciplinary actions.”
- “Episodes of misconduct, EO evaluations/assessments, inspection results, productivity metrics and readiness assessments.
- “Adherence to UCMJ. Good morale and unit cohesion. Senior CGOs and junior NCOs enforce accountability.”
- “Open communication, adherence to standards, visible signs of mutual respect.”
- “I pay attention to the small things—accountability on all levels up and down the chain. Establishing a just culture, good communication.”
- “Mission accomplishment. Number of disciplinary issues.”
- “Communication and morale.”
- “Morale of my unit, climate, accountability at every level.”
- “UCA; CUI; mission effectiveness.”
- “Morale, ‘crispness,’ customs and courtesies.”
- “While I hate to say it, metrics. Metrics on safety, discipline issues, etc. Also climate survey.”
- “Multiple—disciplinary actions, EO/IG complaints, mission metrics, DEOCS, etc.”
- “Adherence to standards at all levels.”
- “Ability to accept responsibility, willingness to work to fix problems and maintain a high degree, not perfect, of professionalism.”
- “Do the preponderance of unit members believe that what the unit does matters? Do they also believe that they matter to the unit? If the answer is yes to both...you probably have a unit with good order and discipline.”

Bibliography

- Air Force Instruction (AFI) 1-1. *Air Force Standards*, 7 August 2012.
- Army Regulation (AR) 600-20. *Army Command Policy*, 6 November 2014.
- Bailey, Beth L. *America's Army: Making the All-Volunteer Force*. Cambridge, MA: The Belknap Press of Harvard University Press, 2009.
- Brooker, Major John W. "Improving Uniform Code of Military Justice Reform." *Military Law Review* 222 (Winter 2014), 2.
- Chapman, Steve. "Military Brass Play Same Old Song." *Chicago Tribune*, 25 July 2013.
- Clausewitz, Carl von. *On War*. Edited and translated by Michael Howard and Peter Paret. Princeton, NJ: Princeton University Press, 1976.
- Committee for Evaluation of the Effectiveness of the Administration of Military Justice. "Report to General William C. Westmoreland." 1 June 1971. https://www.loc.gov/rr/frd/Military_Law/pdf/Report_General-Westmoreland.pdf.
- Committee on the Uniform Code of Military Justice, Report to Honorable Wilbur M. Brucker, Secretary of the Army. "Good Order and Discipline in the Army." 18 January 1960. http://www.loc.gov/rr/frd/Military_Law/pdf/Powell_report.pdf.
- Congressional Record Extensions. *National Defense Authorization Act for FY 2011*. 111th Cong., 2nd sess. No. 86.
- Defense Legal Policy Board. *Report of the Subcommittee on Military Justice in Combat Zones*, 30 May 2013. <http://www.caaflog.com/wp-content/uploads/20130531-Subcommittee-Report-REPORT-OF-THE-SUBCOMMITTEE-ON-MILITARY-JUSTICE-IN-COMBAT-ZONES-31-May-13-2.pdf>.
- Dunlap, Charles J. "Military Justice." In *The Modern American Military*, edited by David M. Kennedy, 241-72. Oxford: Oxford University Press, 2015.
- Ellis, Major Herbert S. "Is Discipline in the Air Force Adequate to Cope with Atomic War?" Maxwell AFB, AL: Air Command and Staff College, 1949.
- FDCH Political Transcripts. House Judiciary Committee. *U.S. Representative Henry Hyde (R-IL) Holds Hearing on the Consequences of Perjury and Related Crimes*. 105th Cong., 2nd sess., 1 December 1998.
- Federal News Service. Hearing of the Personnel Subcommittee of the Senate Armed Services Committee. *Active, Guard, Reserve and Civilian Personnel Programs in Review of the Defense Authorization Request for FY 2014 and the Future Years Defense Program*. 113rd Cong., 1st sess., 24 April 2013.

Flavius Vegetius Renatus. *The Military Institutions of the Romans (De Re Militari)*, Translated by Lieutenant John Clarke. Harrisburg, PA: The Military Service Publishing Co., 1944.

Ghiotto, Major Anthony J. "Back to the Future with the Uniform Code of Military Justice." Maxwell AFB, AL: Air Command and Staff College, 2014.

Hansen, Victor. "Changes in Modern Military Codes and the Role of the Military Commander: What Should the United States Learn from this Revolution?," *Tulane Journal of International and Comparative Law* 16 (2008): 419-66.

Harding, Lieutenant General Richard C. "A Revival in Military Justice," *The Reporter* 37, no. 2 (Summer 2010): 4-6.

Helton, Major Billy J. "Discipline – an Unsolved Problem." Maxwell AFB, AL: Air Command and Staff College, 1972.

Hocking, William E. *Morale and Its Enemies*. New Haven, CT: Yale University Press, 1918.

Horne, Andrew T. "Unit Cohesion?" *Marine Corps Gazette*, February 2001, 45.

Jacobellis v. United States. In *United States Supreme Court Reports*. Vol. 378, 1964.

Johnson, Miranda. "How Would the Lack of Discipline and Standards Affect the Army Profession?" <http://mrmc.amedd.army.mil/content/awards/docs/2013feb-essaywinner.pdf>.

Keegan, John. *The Face of Battle*. New York, NY: Penguin Books, 1976.

Laird, Lorelei. "Military Lawyers Confront Changes as Sexual Assault Becomes Big News." *ABA Journal*, 1 September 2013. <http://www.abajournal.com/magazine/article/military-lawyers-confront-changes-as-sexual-assault-becomes-big-news/>.

Manual for Courts Martial, United States, 2012.

Morris, Lawrence J. *Military Justice: A Guide to the Issues*. Santa Barbara, CA: Praeger, 2010.

Moyer, Homer E. Jr. *Justice and the Military*. Public Law Education Institute, 1972.

Nichols, Louis B. "The Justice of Military Justice." *William & Mary Law Review* 12, no. 3 (1971): 482-511.

Nicholson, Alexander. "The 'Good Order and Discipline' Auto-Block in Making Military Policy." *Huffington Post Politics (Blog)*, 24 August 2013. http://www.huffingtonpost.com/alexander-nicholson/military-reforms_b_3491120.html.

Office of the Deputy Assistant Secretary of Defense (Military Community and Family Policy), “2013 Demographics: Profile of the Military Community,” <http://download.militaryonesource.mil/12038/MOS/Reports/2013-Demographics-Report.pdf>.

Osiel, Mark J. “Obeying Orders: Atrocity, Military Discipline, and the Law of War.” *California Law Review* 86 (October 1998): 939-1057.

Parco, James E. and David A. Levy. *Attitudes Aren’t Free: Thinking Deeply About Diversity in the US Armed Forces*. Maxwell AFB, AL: Air University Press, 2010.

Parker v. Levy. In *United States Supreme Court Reports*. Vol. 417, 1974.

Rehkopf, Donald G. and Marybeth P. Ulrich. “On The General Stanley McChrystal Affair.” *Parameters*, Autumn 2011, 87.

Report of War Department Advisory Committee on Military Justice. 13 December 1946. http://www.loc.gov/rr/frd/Military_Law/pdf/report-war-dept-advisory-committee.pdf.

Schlueter, David A. “American Military Justice: Responding to the Siren Songs for Reform.” *Air Force Law Review* 73 (2015), 193-231.

Schlueter, David A. “The Military Justice Conundrum: Justice or Discipline?” *Military Law Review* 215 (Spring 2013): 1-77.

Senate. *Military Justice Improvement Act*. 159th Cong., 1st sess., 14 November 2013. S. Doc. 162.

Senate Armed Services Committee. *Sen. Carl Levin Holds a Hearing on Sexual Assault in the Military, Panel 1*. 113rd Cong., 1st sess., 4 June 2013.

Senate Armed Services Committee. *Defense Department Nomination*, 113rd Cong., 1st sess., 10 October 2013.

Senate Armed Services Committee. “Senator Carl Levin Holds a Hearing on Defense Nominations.” 113rd Cong., 1st sess., 10 October 2013.

Sherrill, Robert. *Military Justice is to Justice as Military Music is to Music*. New York, NY: Harper & Row, 1970.

Stevens, Master Chief Petty Officer of the Navy Mike. “Zeroing in On Excellence: Good Order and Discipline (Part 4), 23 November 2012. <http://navylive.dodlive.mil/2012/11/23/zeroing-in-on-excellence-good-order-and-discipline-part-4/>.

Stout, Mark. “Where Has All the Hatred Gone?” *War on the Rocks*, 13 November 2015. http://warontherocks.com/2015/11/where-has-all-the-hatred-gone/?utm_source=WOTR+Newsletter&utm_campaign=d5cffdd132-WOTR_Newsletter_8_17_158_15_2015&utm_medium=email&utm_term=0_8375be81e9-d5cffdd132-82946029.

Sun Tzu. *The Art of War*. Harrisburg, PA: The Military Service Publishing Co., 1944.

Theurer, Colonel Kenneth M. and James W. Russell III. "Why Military Justice Matters." *The Reporter* 37, no. 2 (Summer 2010): 7-10.

"This Week With George Stephanopoulos." ABC News, 10 May 2009. Transcript.

United States v. Bauerbach. In *Military Justice Reporter*. Vol. 55. Army Court of Criminal Appeals, 2001.

Van Avery, Lieutenant Commander Christopher E. "12 New Principles of Warfare." *Armed Forces Journal*, July 2007, 24.

Waldman, Ari Ezra. "Military Justice is Alive and Well." *Parameters* 41 no. 1 (Spring 2011).

Washington, Lieutenant Colonel George. "Instructions to Company Captains: General Instructions to all the Captains of Companies," 29 July 1757. <http://founders.archives.gov/documents/Washington/02-04-02-0223>.

Weber, Colonel Jeremy. Survey of Attendees at the Senior Enlisted Legal Orientation and the Senior Officer Legal Orientation Maxwell, AFB, AL: The Air Force Judge Advocate General's School, 13 and 28 January 2016.

